

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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JOHN DOE,

Plaintiff,

v.

Case No. 19-10977

GRETCHEN WHITMER and  
JOSEPH GASPER,

Defendants.

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**ORDER DIRECTING ADDITIONAL BRIEFING**

This case was recently reassigned to the undersigned judge. A motion to dismiss the complaint has been filed and fully briefed. Defendants' motion mirrors several government briefs filed in similar cases involving individual challenges to portions of Michigan's Sex Offender Registration Act ("SORA"). The certified class action *Does v. Snyder*, No. 16-cv-13137 ("*Does II*")—which is currently pending before this court—also addresses the constitutionality of SORA.

In their motion, Defendants argue that Plaintiff is a member of the certified *Does II* class and, as such, he cannot independently litigate his claims. In response, Plaintiff concedes that his ex-post facto challenges to SORA are preempted by *Does II* and stipulates to the dismissal of Counts I and II of the Amended Complaint. However, Plaintiff also argues that his substantive due process (Count III), procedural due process (Count IV), equal protection (Count V), and eighth amendment (Count VII) claims are not preempted by *Does II*, in part because Plaintiff's claims are different than those at issue in *Does II*, and in part because Plaintiff is a member of a separate class

of offenders than the *Does II* plaintiffs—juveniles whose crimes triggered SORA reporting and registration requirements. Defendants' reply does not address the impact of Plaintiff's status as a juvenile offender on his membership in the *Does II* class, and the court considers this issue deserving of further inquiry. Accordingly,

IT IS ORDERED that Defendants submit a supplemental brief for their motion to dismiss by **January 17, 2020** addressing the impact of Plaintiff's status as a juvenile offender on Counts III–VII.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: November 22, 2019

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 22, 2019, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(810) 292-6522

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